

The Lindon City Planning Commission held a regularly scheduled meeting on **Tuesday, November 29, 2022 beginning at 6:00 p.m.** at the Lindon City Center, City Council Chambers, 100 North State Street, Lindon, Utah.

REGULAR SESSION – 6:00 P.M.

Conducting: Sharon Call, Chairperson
Invocation: Scott Thompson, Commissioner
Pledge of Allegiance: Jared Schauers, Commissioner

PRESENT

Sharon Call, Chairperson
Rob Kallas, Commissioner
Mike Marchbanks, Commissioner
Scott Thompson, Commissioner
Jared Schauers, Commissioner
Renee Tribe, Commissioner
Mike Florence, Economic Development Director
Brian Haws, City Attorney
Mary Barnes, Associate Planner
Kathryn Moosman, Recorder

EXCUSED

Steven Johnson, Commissioner

1. CALL TO ORDER – The meeting was called to order at 6:00 p.m.

2. APPROVAL OF MINUTES –The minutes of the regular meeting of the Planning Commission meeting of November 15, 2022 were reviewed.

COMMISSIONER MARCHBANKS MOVED TO APPROVE THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 15, 2022 AS PRESENTED. COMMISSIONER THOMPSON SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

3. PUBLIC COMMENT – Chairperson Call called for comments from any audience member who wishes to address any issue not listed as an agenda item. There were no public comments.

CURRENT BUSINESS –

4. Miscellaneous Application Approval – Smith Sports Court Setback Modification – 242 E. 600 N. The applicant requests a sports court setback modification from the planning commission, pursuant to Lindon City Code 17.44.150. (Parcel ID #40:312:0010).

Mary Barnes, Associate Planner, led this agenda item stating the applicant (who is in attendance) wants to build a pickleball/half-basketball court in the southeast corner of his

property. She then explained, according to LCC 17.44.150, sport court fencing shall maintain a minimum 10 ft setback from rear and side property lines, however, the Planning Commission has the authority to modify that requirement when specific requirements are met. She stated the applicant is requesting a modification to the requirement to allow the sport court in question to be placed along the side and rear property lines of 242 E 600 N. She noted the rear setback is adjacent to a private land and does not abut the rear yard of another residential property. The sports court fencing will be 10 ft tall, which will necessitate a building permit from the building department, and inspections.

Ms. Barnes indicated Staff believes that this modification will not significantly affect the neighborhood, and it will not damage the image of the neighborhood. She added that permitting this modification will allow Mr. Smith to use his private property as he sees fit. Ms. Barnes then presented an Aerial photo, Site Plan and Elevation followed by some general discussion.

Following some additional discussion, the Commission agreed this is a pretty straightforward request and were in agreement to approve this application with the conditions as recommended by staff.

Chairperson Call called for any further comments or discussion from the Commission. Hearing none she called for a motion.

COMMISSIONER KALLAS MOVED TO APPROVE THE APPLICANTS REQUEST TO MODIFY THE SPORTS COURT SETBACK REQUIREMENT FOUND IN 17.44.150 FOR THE PROPERTY LOCATED AT 242 E. 600 N. WITH THE FOLLOWING CONDITIONS: A) THE APPLICANT WILL APPLY FOR A BUILDING PERMIT FOR THE 10 FT FENCING; B) THE SPORT COURT LIGHTING WILL NOT SHINE INTO ANOTHER'S PROPERTY; AND C) ALL ITEMS OF THE STAFF REPORT. COMMISSIONER TRIBE SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
COMMISSIONER THOMPSON	AYE
COMMISSIONER SCHAUERS	AYE
COMMISSIONER TRIBE	AYE
THE MOTION CARRIED UNANIMOUSLY	

5. Minor Subdivision Approval – Timber Creek Estates Plat B – 740 W. 100 S.

The applicant requests minor subdivision approval for a two-lot subdivision for Timber Creek Estates Plat B at 740 W. 100 S. (Parcel ID #14:066:0087).

Ms. Barnes also presented this agenda item stating the applicant is seeking minor subdivision approval to create a two-lot subdivision of which one lot will be a flag lot. She noted Timber Creek Estates Plat B will create a two-lot subdivision located at 740 W 100 S, Lindon. She noted Lot 18 is currently vacant and is proposed as a 20,000 square foot lot and Lot 19 is creating a new flag lot for the existing home on the property. She pointed out that originally, the proposed lot 18 was used as a horse property.

Ms. Barnes explained in 1997, a variance for the depth of Lot 18 was granted to the Munsons, who were the owners at the time, by the Lindon City Board of Adjustment. She pointed out that variances run with the land.

Ms. Barnes then referenced LCC Public Utility Easements – Lot 19 as follows: 17.32.320 (11) states: “For purposes of determining the setbacks of the flag lot, the front property line shall be the nearest line that is most parallel with the street from which the driveway accesses. Orientation of the dwelling is not regulated.” Therefore, the setbacks for a flag lot are as follows:

- Front Yard – 30 ft
- Rear Yard – 30 ft
- Side Yard – 15 ft (side yard setbacks shall be 15 feet on each side yard of the dwelling unit (17.32.320))

Ms. Barnes explained that the accessory building on Lot 19 (shown on the aerial map) was built in 1997, and the flag lot code and setbacks were adopted in 1999. It’s clear that the accessory building is encroaching into the “front” setback of Lot 19, and it would encroach into the customary 5 ft public utility easement, as it is less than 5 ft away from the “front” (south) fence line and the eastern fence line. Therefore, the accessory building is a nonconforming use, because it was lawful before the current code was adopted.

Ms. Barnes further explained that LCC 17.16.030 states: “All nonconforming uses shall not be added to, altered, or moved without approval from the Planning Commission”. As it stands, the subdivision approval will not be adding to, altering, or moving this nonconforming use, therefore, the nonconforming status of this accessory building does not need to be discussed.

Ms. Barnes commented because this building has already been built where the public utility easement would routinely be placed, the City Engineer has recommended that the PUE along the front (south) property line and the eastern property line not be required on the plat.

Ms. Barnes indicated while reviewing the plat, staff noted that the existing 740 W 100 S parcel has a few fence/property line discrepancies that will need to be cleaned up before final staff approval as it appears that the lot lines don’t follow the fence lines and overlap. She noted the discrepancies are marked in red in the aerial map exhibit. She stated the issue is that the square footage of the lot 18 does not truly reflect the actual square footage, because the fence lines are within the property lines. As of right now, the applicant has expressed that he intends to move the fence lines to meet the property lines, and will he be reaching out to his neighbors. However, if these fence lines are not moved, and the property lines get moved instead, this plat will be brought back to a future planning commission for reconsideration.

Ms. Barnes then gave a brief history/outline of the variance for 740 W 100 S as follows:

- In 1997, James and Ann Munson applied for a variance for the depth of Lot 18. Lot 18, at its shallowest end, is about 87 ft deep, and the Lindon City residential code requires that all lots in the R1-20 zone be 100’ deep. Originally, the idea behind subdividing this property would be to put a cul-de sac down the existing driveway, as seen in the 1997 Proposed Subdivision exhibit.
- On 5/15/1997, this depth variance was approved. After extensive research of the City archives, staff has concluded that the minutes from this meeting were not preserved. We do not know why or how the 1997 Board of Adjustments justified this decision, or if any conditions were included. All we have is a note that states: Approved 5/15/1997.
- In June 1997, James Munson applied for a concept map and subdivision, to create the subdivision seen on the 1997 Proposed subdivision exhibit. This subdivision was intended to open up the back property and provide a way for surrounding property owners to develop their land. However, it was never brought to the planning commission,

2 and therefore, never approved. There are no review documents to suggest that it was reviewed, and no further documentation on why it was not completed.

- 4 • Over the years, many potential buyers have come to the city to ask if Lot 18 could be subdivided, but the city has consistently said no, because of the obvious depth problem. The depth variance document was only recently uncovered from the city records, after research into the history of this property. With this document, and with the note confirming approval, it seems that a depth variance was granted in 1997. Therefore, Lot 18 can be subdivided, despite the depth issue.
- 10 • Neighboring property owners suggest that the lot depth variance was tied to the road being constructed. She pointed out that the city has no records of this condition of approval.

14 Ms. Barnes pointed out to be able to realistically build a single-family home on this lot, the applicant will most likely have to apply for a variance on the rear 30 ft setback and without a setback variance, and due to the reduced depth, the buildable area on this lot is too small.

16 Ms. Barnes stated the Lindon City Flag Lot Ordinance, 17.32.320(2) requires that flag lots only be permitted when the following two circumstances exist:

- 18 a. At the time of application, development using standard public streets is not possible. The property has specific constraints that limit access, public street frontage, and/or construction of a standard public roadway. These abnormal constraints may be restrictive topography, constraints caused by built environment, irregular lot configuration, ownership limitations, environmental constraints such as wetlands, springs, ditches, or canals, etc.
- 20 b. Development using standard public streets is possible, but not in the best interest of the public.

22 Ms. Barnes went on to say the Lindon City Streets Master Plan Map does not identify this location for a proposed public street. Currently, the width of the staff portion of the flag lot is 52' at 100 S. but narrows to approximately 46' so there is not sufficient width for a public street. She indicated that the city understands that this may limit the future development potential of the vacant parcel to the west of the flag lot (14:066:0090). However, if the owner decides in the future to develop that property it would be feasible to work with the owner of the flag lot and adjoining property owner to gain the necessary width to construct a public street and develop the property.

30 Ms. Barnes stated Staff has determined that the proposed subdivision complies, or will be able to comply before final plat approval, with all remaining land use standards, with the addition of the variance. The City Engineer is addressing engineering standards and all engineering issues will be resolved before final plat approval is granted.

34 Ms. Barnes then presented an Aerial Photo, Subdivision Plat, 1997 Variance Document and the 1997 Proposed Concept Subdivision Plan followed by discussion.

36 Chairperson Call stated this is not a public hearing, but she will take public comment at this time. There were several in attendance who addressed the Commission as follows:

38 **Demont Hill:** Mr. Hill stated he is a neighbor to the property in question. He also gave a brief history stating he tried to buy that piece and was told by the city they could not build there. He

2 pointed out that Phil Brown also tried to buy the property. He noted Mr. Munson came to him
and his father, but he needed 5 or 6 ft in order to sell and build on the lot. If this was approved in
4 1997, why did he not sell to his employee as he wanted to do. The city would not allow to sell
that separate from the property and he doesn't understand why after multiple people inquiring to
6 buy the property that the city is allowing it now.

8 **Wayne Whiteley:** Mr. Whiteley stated he is also a neighbor to the property in question. He
explained when Mr. Munson was trying to get a building permit, the only way he could get one
10 was to put in a cul-de-sac. He noted he had the acreage and frontage. Mr. Whiteley pointed out
that the spirit of the flag lot code is when nothing else can be done and you can't put in a
12 subdivision or when the best use of the property would be a cul-de-sac. He noted he has not
talked to Mr. Collier about development options.

14 **Eric and Joy Nelson:** Mr. Nelson stated they have loved their time living in here in Lindon. He
16 stated they are in favor of helping their neighbor succeed in improving their property. He
explained that Mr. Collier has talked with them and they believe they can work things out with
18 the fence line agreement. He also asked if a cross line agreement would be permissible? City
Attorney, Brian Haws confirmed that statement adding it would need to be recorded and
20 documented. Mr. Nelson stated he would think that Mr. Hill and Mr. Collier could work things
out. He stated he is in favor of the cul-de-sac. Chairperson Call pointed out this would still have
22 to go to a variance etc.

24 **Diane Campbell:** Ms. Campbell asked how this would landlock the Whitely's property with the
access from 800 West. Commissioner Marchbanks clarified a house would have to be removed.

26
Following some additional discussion on this issue, the Commission was in agreement to
28 approve this minor subdivision request for Timber Creek Estates Plat B with the conditions listed
in the motion as recommended by staff.

30 Mr. Haws commented this has been a good, thorough discussion and it appears the
Commission clearly understands the issue. He also confirmed it is clear the variance was granted
32 from the documents the city has.

Chairperson Call called for any further comments or discussion from the Commission.
34 Hearing none she called for a motion.

COMMISSIONER SCHAUERS MOVED TO APPROVE THE APPLICANT'S FOR
36 MINOR SUBDIVISION APPROVAL LOCATED AT 740 W. 100 S. WITH THE
FOLLOWING CONDITIONS: 1. THE APPLICANT WILL CONTINUE TO WORK WITH
38 THE CITY ENGINEER TO MAKE ALL FINAL CORRECTIONS TO THE
ENGINEERING DOCUMENTS AND PLAT; 2. COMPLETE (OR POST AN ADEQUATE
40 IMPROVEMENT COMPLETION ASSURANCE), WARRANT AND POST REQUIRED
ASSURANCE FOR ALL REQUIRED PUBLIC INFRASTRUCTURE IMPROVEMENTS; 3.
42 PRIOR TO PLAT RECORDING, THE APPLICANT WILL UPDATE THE FINAL PLAT
MYLAR TO INCLUDE NOTARIZED SIGNATURES OF OWNERS' CONSENT TO
44 DEDICATION; AND OBTAIN SIGNATURES OF ALL ENTITIES INDICATED ON THE
SUBDIVISION PLAT ATTACHED HERETO; 4. THE PLANS AND PLAT WILL MEET
46 AND BE CONSTRUCTED AS PER APPLICABLE SPECIFICATIONS AS FOUND IN THE

LINDON CITY DEVELOPMENT MANUAL; 5. IF THE LOT LINES ARE MODIFIED FROM THE PRESENTED PLAT, THAT THE PLAT BE BROUGHT BACK TO THE PLANNING COMMISSION FOR RECONSIDERATION. 6. ALL ITEMS OF THE STAFF REPORT. COMMISSIONER KALLAS SECONDED THE MOTION. THE VOTE WAS RECORDED AS FOLLOWS:

CHAIRPERSON CALL	AYE
COMMISSIONER MARCHBANKS	AYE
COMMISSIONER KALLAS	AYE
COMMISSIONER SCHAUERS	AYE
COMMISSIONER TRIBE	AYE

THE MOTION CARRIED UNANIMOUSLY

6. New Business: Reports by Commissioners – Chairperson Call called for any new business or reports from the Commissioners. There was no new business at this time.

7. Planning Director Report - General City updates. Ms. Barnes went over some upcoming applications coming to the next planning commission meeting.

Chairperson Call called for any further comments or discussion from the commission. Hearing none she called for a motion to adjourn.

ADJOURN –

COMMISSIONER MARCHBANKS MADE A MOTION TO ADJOURN THE MEETING AT 7:10 PM. COMMISSIONER TRIBE SECONDED THE MOTION. ALL PRESENT VOTED IN FAVOR. THE MOTION CARRIED.

Approved – December 12, 2022

Sharon Call, Chairperson

Michael Florence
Community Development Director